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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/847,942	05/02/2001	Eugene G. Joseph	56654US002	6169

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EXAMINER

THOMPSON, CAMIE S

ART UNIT PAPER NUMBER

1774

DATE MAILED: 03/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/847,942

Applicant(s)

JOSEPH ET AL.

Examiner

Camie S Thompson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Amendment filed January 27, 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20, 22-25 and 40-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20, 22-25 and 40-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- ☐ Interview Summary (PTO-413) Paper No(s). _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

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DETAILED ACTION

1. Applicant's amendment and accompanying remarks filed January 27, 2004 have been acknowledged.
2. Examiner acknowledges amended claims 1-20, 22-44 and 47-49.

Claim Objections

3. Claim 14 is objected to because of the following informalities: Claim 14 has an improper Markush group. The examiner suggests adding the phrase "the group consisting of" after the phrase "selected from isooctyl acrylate ...". Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-20, 22-25 and 40-45 and 47-49 are rejected under 35 U.S.C. 102(e) as being anticipated by Riedel et al., U.S. Patent Number 6,133,173.

The Riedel reference discloses a nonwoven wrap that can be used as a protective underwrap, medical tape or athletic tape, which comprises pressure-sensitive adhesive fibers and a non-

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pressure sensitive material that comprises conjugate fibers of different polymers or blends as per instant claims 1, 17, 20, 22-23, 25, 40-41, 43-45, 47 and 49 (see abstract, column 1, lines 32-column 2, line 68 and column 3, lines 1-8). Riedel also discloses that the nonwoven wrap has a basis weight from 40 to 200 g/m², an elongation break from 100 to 900 percent, tensile strength of at least 40-260 g/cm and at least 150% of the load at yield point as per instant claims 1, 3-5, 15, 17, 19-20, 22-23, 25, 40-41, 43 and 48 (see column 2, lines 24-25; claims 1, 2 and 9-14 and Table 1, column 14). The reference also discloses that the polymeric conjugate fibers are substantially continuous microfibers that have a diameter generally less than 25 microns as per instant claims 1, 2 and 7 (see column 2, lines 48-50 and column 3, lines 16-19). The non-pressure sensitive adhesive material is fibrous in form is discloses in the reference as comprising 5 to 95 percent of the basis weight of the fibers as per instant claim 6 (see column 9, lines 26-52). Riedel discloses using suitable pressure-sensitive adhesives that include polyalphaolefin, rubber resin adhesives and acrylate adhesives wherein the acrylate polymer is crosslinked and comprises copolymerized monomers comprising at least one monofunctional free-radically copolymer reinforcing monomer having a homopolymer glass transition temperature higher than that of the alkyl (methyl) acrylate monomer as per instant claims 9-11, 13-14, 19, 24 and 42 (see column 4, lines 35-38; column 5, lines 31-55 and column 6, line 16-column 7, line 26). A vinyl group such as styrene is discloses in the reference as a suitable crosslinking agent as per instant claim 12 (see column 7, lines 35-54). The Riedel reference discloses that the non pressure-sensitive adhesive fibrous material comprises an elastomer and has a force of about 7.5-10 MPa as per instant claim 15 and 20 (see column 9, lines 53-column 10, line 3). Suitable non-adhesive materials for use in forming conjugate fibers, for use in blends with the pressure-sensitive

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adhesive or for use as separate fibers are disclosed in the Riedel reference and include elastomeric materials that include metallocene-type polyethylene copolymers as per instant claim 17 (see column 8, lines 67-column 9, line 25). The conjugate microfibers can be present in the form of two or more layered fibers, sheath-core fiber arrangement or "island in the sea" type fiber structures as per instant claim 18 (see column 3, lines 3-8). The microfibers of Riedel meet the applicant's definition of minimicrofibers as being microfibers made out of more than one fiber.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hicks, Jr., U.S. Patent Number 4,659,923 in view of Riedel et al., U.S. Patent Number 6,133,173.

The Hicks reference discloses a medical sensor that uses fiber optics comprising of pressure-sensitive adhesive fibers as per instant claim 46 (see abstract, column 3, lines 10-12, column 7, lines 55-59 and column 8, lines 9-10). Hicks does not disclose the components of the pressure sensitive adhesive fibers as per instant claim 1. Riedel does teach a nonwoven wrap that can be used as a protective underwrap, medical tape or athletic tape, which comprises pressure-sensitive adhesive fibers and a non-pressure sensitive material that comprises conjugate microfibers of

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different polymer blends. The microfibers of the Riedel reference meet the applicant's definition of minimicrofibers as being microfibers made out of more than one fiber. It would have been obvious to one of ordinary skill in the art to use the pressure-sensitive adhesive fibers of the Riedel reference in order to obtain a medical device that allows for the core of the device to be subjected to lateral tension forces (see Hicks, Jr.: column 8, lines 16-17).

Response to Arguments

8. Applicant's arguments filed January 27, 2004 have been fully considered but they are not persuasive. Applicant argues that the Riedel reference does not teach or suggest an adhesive nonwoven web. Applicant directs the examiners attention to page 3, line 29-page 4, line 3 of the instant disclosure. The instant disclosure recites removable adhesive articles that include a backing and a pressure sensitive adhesive layer in the form of a nonwoven web, which includes such adhesive fibers, disposed thereon. Riedel reference discloses a nonwoven wrap that is formed from coherent fibers including at least in part pressure-sensitive adhesive fibers which are intimately entangled each with the other in the form of a coherent breathable nonwoven web (see Riedel: column 2, lines 35-40). The Riedel reference discloses an adhesive nonwoven web as defined by applicant. Additionally, applicant argues that the Riedel reference only refers to a cohesive wrap (article that will only stick to itself). The Riedel reference discloses articles such as medical and athletic tapes, which includes materials that adhere to a variety of dissimilar surfaces. The rejections are maintained.

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9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Camie S. Thompson whose telephone number is (571) 272-1530. The examiner can normally be reached on Monday through Friday from 7:30 am to 4:00 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cynthia H. Kelly, can be reached at (571) 272-1526. The fax phone number for the Group is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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